

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In re Application of

1st CHOICE MOVERS LLC

for a permit to operate as a motor carrier
of household goods.

DOCKET TV-180911

NOTICE OF INTENT TO DENY
APPLICATION FOR PERMANENT
AUTHORITY

NOTICE OF OPPORTUNITY FOR
HEARING

BACKGROUND

- 1 On November 8, 2018, 1st Choice Movers LLC (1st Choice Movers or Applicant) filed with the Washington Utilities and Transportation Commission (Commission) an application for authority to operate as a household goods carrier in the state of Washington (Application).
- 2 RCW 81.80.075(3) requires the Commission to consider whether an applicant for a household goods carrier permit is fit to perform the services proposed and willing and able to conform to the requirements, rules, and regulations of the Commission, and whether the operations are consistent with the public interest.
- 3 The Commission will grant or deny an application for permanent authority after it conducts a complete review of the application, including supporting statements, reports, or other information necessary to determine fitness. Commission rules provide that the Commission may reject or deny an application for permanent authority if the Commission believes the applicant is unfit, or if issuing the permit is not in the public interest.
- 4 The Commission will not grant provisional or permanent authority if an applicant or any of its employees has been convicted of any crime involving theft, burglary, assault, sexual misconduct, identity theft, fraud, false statements, or the manufacture, sale or distribution of a controlled substance within five years of the date of the application¹ or more than five years prior to the date of the application if the Commission determines

¹ WAC 480-15-302(8)(a).

that the nature or extent of the crime(s) will likely interfere with the proper operation of a household goods moving company.²

5 If it is necessary to resolve outstanding issues or concerns related to fitness or the public interest, or any other issue resulting from a complaint or public comment, the Commission may hold a hearing or brief adjudicative proceeding on any application for permanent authority.³

6 Commission Staff (Staff) has reviewed the Application and recommends that the Commission deny the Application for the reasons set out below.

FACTUAL ALLEGATIONS

7 On November 9, 2018, Staff conducted a LexisNexis background check report for Matthew Thomas Comella, who is listed on the Application as the owner of 1st Choice Movers.

8 Staff's background check revealed that Mr. Comella has a 13 year criminal history in Brevard County, Florida. Mr. Comella was convicted of Battery Domestic Violence in 2000, Retail Petit Theft in 2009, Grand Theft of a Motor Vehicle in 2009, Grand Theft in 2012, Grand Theft in 2012, Petit Theft in 2012,⁴ and Petit Theft in 2016.⁵ A judge also found that Mr. Comella committed parole violations in August 2005 and September 2010. The convictions and parole violations are listed online on the Brevard County, Florida public court case search tool.

9 Under WAC 480-15-302(8)(a), the Commission will deny operating authority to an applicant if a person named in the application has been convicted of any crime involving theft, burglary, assault, sexual misconduct, identity theft, fraud, false statements, or the manufacture, sale, or distribution of a controlled substance within five years of the date of the application. Mr. Comella's 2016 felony Petit Theft conviction occurred within five years of the date of the Application.

² WAC 480-15-302(8)(b).

³ WAC 480-15-350.

⁴ Mr. Comella's 2009 Petit Theft conviction was a misdemeanor conviction. The 2012 Petit Theft conviction was a felony conviction because his multiple prior theft convictions aggravated the offense. *See* Fla. Stat. § 812.014(3)(c).

⁵ The 2016 Petit Theft conviction was a felony conviction for the same reason as the 2012 Petit Theft conviction.

- 10 Under WAC 480-15-302(8)(b), the Commission will deny operating authority to an applicant if a person named in the application has been convicted of any crime involving theft, burglary, assault, sexual misconduct, identity theft, fraud, false statements, or the manufacture, sale, or distribution of a controlled substance more than five years prior to the date of the application and the commission determines that the nature or extent of the crime(s) will likely interfere with the proper operation of a household goods moving company. Staff believes that the nature and extent of Mr. Comella's convictions will likely interfere with the proper operation of a household goods moving company.
- 11 Under WAC 480-15-302(13), the Commission will deny operating authority when other circumstances justify doing so. While WAC 480-15-302(8)(b) does not include parole violations as crimes which will cause the Commission to deny an application, Staff believes that these violations show a disregard for the law and provide an additional basis to deny the application under WAC 480-15-302(13).
- 12 Staff recommends the Commission deny the Application for 1st Choice Movers for failure to meet the requirements of WAC 480-15-302(8)(a) and (b) and WAC 480-15-302(13). Mr. Comella's 2016 felony Petit Theft conviction renders 1st Choice ineligible for operating authority. Further, Mr. Comella's criminal history, which includes no less than five convictions for theft crimes occurring within the last decade and several parole violations, poses an unacceptable risk to consumers and their belongings.

DISCUSSION

- 13 Based on the information Staff presented, the Commission agrees with Staff's recommendation and intends to deny the Application. Matthew Comella's criminal history renders 1st Choice Movers LLC unfit to operate as a household goods moving company.
- 14 Staff's findings support the conclusion that the Applicant has failed to meet the requirements of WAC 480-15-302(8) and WAC 480-15-302(13) and that the Commission should deny the Application.

NOTICE

- 15 The Commission hereby provides notice of its intent to deny 1st Choice Movers LLC's Application for permanent authority for failure to meet the application requirements in RCW 81.80 and WAC 480-15.
- 16 **NOTICE OF OPPORTUNITY FOR HEARING.** 1st Choice Movers LLC may request a hearing to contest the factual allegations set out in this notice. 1st Choice Movers LLC

may request such a hearing by filing a written request for a hearing with the Commission by **Friday, December 28, 2018**. The request must be directed to the attention of Mark L. Johnson, Executive Director and Secretary, Washington Utilities and Transportation Commission, P.O. Box 47250, Olympia, WA 98504-7250, and must reference Docket TV-180911.

- 17 If 1st Choice Movers LLC requests a hearing by **December 28, 2018**, the Commission will schedule a brief adjudicative proceeding under RCW 34.05.482 and WAC 480-07-610. If 1st Choice Movers LLC does not request a hearing by that date, the Commission will enter an order rejecting the Application.

DATED at Olympia, Washington, and effective November 29, 2018.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARK L. JOHNSON
Executive Director and Secretary